

SENATE BILL 1449

By Bowling

AN ACT to amend Chapter 65 of the Acts of 1905; and any other acts amendatory thereto, relative to the charter of the City of Manchester.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Chapter 65 of the Acts of 1905, that being the charter of the City of Manchester, and any other acts amendatory thereto, is amended by deleting the charter in its entirety and substituting instead the following:

ARTICLE I

CORPORATE CAPACITY

Section 1. Incorporation. That the City of Manchester, in the County of Coffee, and the inhabitants thereof, are hereby constituted a body politic and corporate, under the name and style of the City of Manchester, and shall have perpetual succession as a municipal corporation, and by the corporate name may sue and be sued, plead and be impleaded, grant, receive, purchase and hold real and mixed and personal property or dispose of the same for the benefit of the city.

Section 2. Boundaries. The corporate limits of the City of Manchester shall be those fixed by Chapter 65 of the Private Acts of 1905, all acts amendatory thereto, and any annexations or contractions of territory made pursuant to law.

ARTICLE II

POWERS

Section 1. Powers enumerated. The Board of Mayor and Aldermen shall have the power to:

(1) Assess, levy and collect taxes for all general and special purposes on all subjects or objects of taxation, and privileges taxable by law for state, county or municipal purposes;

(2) Adopt classifications of the subjects and objects of taxation that are not contrary to law;

(3) Make special assessments for local improvements;

(4) Contract and be contracted with;

(5) Incur debts by borrowing money or otherwise, and give any appropriate evidence thereof, in the manner hereinafter provided;

(6) Provide for municipal planning and zoning control;

(7) Appoint boards, commissions and committees not in conflict with provisions of this Charter or state law;

(8) Use tax incentives allowed by statute to promote economic and community development;

(9) Issue and give, sell, pledge or in any manner dispose of, negotiable or nonnegotiable interest-bearing or noninterest-bearing bonds, warrants, promissory notes or orders of the municipality, upon the credit of the municipality or solely upon the credit of specific property owned by the municipality or solely upon the credit of income derived from any property used in connection with any public utility owned or operated by the municipality, or solely upon the credit of the proceeds of special assessments for local improvements, or upon any two (2) or more such credits;

(10) Expend the money of the municipality for all lawful purposes;

(11) Acquire or receive and hold, maintain, improve, sell, lease, mortgage, pledge or otherwise dispose of property, real or personal, and any estate or interest therein, within or without the municipality or state;

(12) Condemn property, real or personal, or any easement, interest, or estate or use therein, either within or without the municipality, for present or future public use; the

condemnation shall be effected in accordance with the terms and provisions of state law, or in any other manner provided by law;

(13) Take and hold property within or without the municipality or state upon trust; and administer trusts for the public benefit;

(14) Acquire, construct, own, operate, and maintain, or sell, lease, mortgage, pledge or otherwise dispose of public utilities or any estate or interest therein, or any other utility of service to the municipality, its inhabitants, or any part thereof, and, further, may issue debt for these purposes under the state law;

(15) Grant to any person, firm, association or corporation (including the municipality) franchises for public utilities and public services to be furnished the municipality and those therein. The power to grant franchises embraces the power to grant exclusive franchises. Whenever an exclusive franchise is granted, it shall be exclusive not only as against any other person, firm, association or corporation, but also against the municipality itself. Franchises may be granted for a period of twenty-five (25) years or less, but not longer. The board may prescribe in each grant of a franchise, the rate, fares, charges and regulations that may be made by the grantee of the franchise in accordance with state and federal law. Franchises may by their terms apply to the territory within the corporate limits of the municipality at the date of the franchises, and as the corporate limits may be enlarged, and to the existing streets, alleys and thoroughfares that thereafter may be opened;

(16) Make contracts with any person, firm, association or corporation for public utilities, public services to be furnished the municipality and those therein. The power to make contracts embraces the power to make exclusive contracts. When an exclusive contract is entered into, it shall be exclusive against any other person, firm, association or corporation. These contracts may be entered into for a period of twenty-five (25) years or less, but not longer. The board may prescribe in each such contract entered into, the rates, fares, charges and regulations that may be made by the person, firm, association or corporation with whom the contract is made in accordance with state and federal law. Such contracts may by their terms apply to the territory within the corporate

limits of the municipality at the date of the contract, and as the corporate limits may be enlarged, and to the then existing streets, alleys and thoroughfares and to any other streets, alleys and other thoroughfares that thereafter may be opened;

(17) Prescribe reasonable regulations regarding the construction, maintenance, equipment, operation and service of public utilities, compel reasonable extensions of facilities for these services and assess fees for the use of or impact upon these services. Nothing herein shall be construed to permit the alteration or impairment of any of the terms or provisions of any exclusive franchise granted or of any exclusive contract entered into under subdivisions (15) and (16);

(18) Establish, open, relocate, vacate, alter, widen, extend, grade, improve, repair, construct, reconstruct, maintain, light, sprinkle and clean public highways, streets, boulevards, parkways, sidewalks, alleys, parks, public grounds, public facilities, libraries and squares, wharves, bridges, viaducts, subways, tunnels, sewers and drains within or without the corporate limits, regulate their use within the corporate limits, assess fees for the use of or impact upon such property and facilities and take and appropriate property therefore under the provisions of state law or any other manner provided by general laws;

(19) Construct, improve, reconstruct and reimprove by opening, extending, widening, grading, curbing, guttering, paving, graveling, macadamizing, draining or otherwise improving any streets, highways, avenues, alleys or other public places within the corporate limits, and assess a portion of the cost of these improvements on the property abutting on or adjacent to these streets, highways or alleys under, and as provided by, state law or any other manner provided by general laws;

(20) Assess against abutting property within the corporate limits the cost of planting shade trees, removing from sidewalks all accumulations of snow, ice and earth, cutting and removing obnoxious weeds and rubbish, street lighting, street sweeping, street sprinkling, street flushing and street oiling, the cleaning and rendering sanitary or removal, abolishing and prohibiting of closets and privies, in such manner as they may be provided by general law or by ordinance of the board;

(21) Acquire, purchase, provide for, construct, regulate and maintain and do all things relating to all marketplaces, public buildings, bridges, sewers and other structures, works and improvements;

(22) Collect and dispose of drainage, sewage, ashes, garbage, refuse or other waste, or license and regulate their collection and disposal, and the cost of collection, regulation or disposal may be funded by taxation, special assessment to the property owner, user fees or other charges;

(23) License and regulate all persons, firms, corporations, companies and associations engaged in any business, occupation, calling, profession or trade not prohibited by law;

(24) Impose a license tax upon any animal, thing, business, vocation, pursuit, privilege or calling not prohibited by law;

(25) Define, prohibit, abate, suppress, prevent and regulate all acts, practices, conduct, business, occupations, callings, trades, use of property and all other things whatsoever detrimental, or liable to be detrimental, to the health, morals, comfort, safety, convenience or welfare of the inhabitants of the municipality, and exercise general police powers;

(26) Prescribe limits within which business occupations and practices liable to be nuisances or detrimental to the health, morals, security or general welfare of the people may lawfully be established, conducted or maintained;

(27) Regulate the location, bulk, occupancy, area, lot, location, height, construction and materials of all buildings and structures, and inspect all buildings, lands and places as to their condition for health, cleanliness and safety, and when necessary, prevent their use and require any alteration or changes necessary to make them healthful, clean or safe;

(28) Provide and maintain charitable, educational, recreative, curative, corrective, detentive or penal institutions, departments, functions, facilities, instrumentalities, conveniences and services;

(29)

(A) Enforce any ordinance, rule or regulation by fines, forfeitures and penalties, and by other actions or proceedings in any court of competent jurisdiction.

(B) No fine may exceed fifty dollars (\$50.00) or the maximum allowable under general state law, whichever is greater, for violation of municipal ordinances.

(30) Regulate, tax, license or suppress the keeping or going at large of animals within the municipality, impound them, and in default of redemption, sell or dispose of in accordance with State regulations;

(31) Call elections as herein provided;

(32) By ordinance, assess, impose, levy and collect impact fees from new land developments within the municipal limits, provided that the impact fees are limited to the reasonably anticipated costs of public improvements generated by such developments, and provided that the impact fee system and formula is prescribed by ordinance;

(33) To make regulations to secure the general health, safety and welfare of the inhabitants, and to require the owners of property to keep, maintain and repair their property in a manner both safe and conducive to the good health, safety and welfare of the citizens of the city. For that purpose the city shall have the right to adopt ordinances requiring property owners at their expense to repair, close or demolish unsafe and unhealthy structures on their property and requiring property owners at their expense to remove from their property unsafe and unhealthy manmade and natural material, including junk motorized and non-motorized vehicles and carriages of every kind and description, debris, trash, litter and garbage and growth of vegetation, including weeds, trees, vines, grass and underbrush, and upon the failure or refusal of any property owner to comply with such ordinances, to repair, close or demolish such structures, or to remove from the property such man-made and natural material at the city's expense.

The city shall file with the register of deeds in the county where the property lies notice of the city's expense, which notice shall be a lien on the property in favor of the city, second only to liens of the state, county and city for property taxes, any lien of the city, for

special assessments, and any valid lien, right or interest in such property duly recorded or perfected, prior to the filing of such notice, and the expenses shall be collected by the city's tax collector at the same time and in the same manner as property taxes are collected;

(34) Borrow money to purchase, acquire, construct, extend, improve, repair or equip any public works project, as defined in Tennessee Code Annotated, Title 9, Chapter 21, and issue bonds or notes for such project, including refunding bonds, in such form and upon such terms as it may determine. Any such bonds or notes shall be issued pursuant to the procedures set forth in and shall be governed by Title 9, Chapter 21, including provisions dealing with covenants permitted in bond resolutions, security and remedies of bondholders; and

(35) Have and exercise all powers that now or hereafter it would be competent for this Charter specifically to enumerate, as fully and completely as though these powers were specifically enumerated.

### ARTICLE III

#### ELECTIONS

Section 1. Date of general non-partisan city election. A general city election shall be held on the first Thursday in August in each even-numbered year.

Section 2. General election laws apply. All elections shall be conducted by the Commissioners of Elections of Coffee County in accordance with the general election laws and this Charter.

Section 3. Voter qualification requirements. Persons meeting the residency requirements prescribed by the election laws of the State of Tennessee and non-resident individuals owning at least fifty percent (50%) fee simple interest in a parcel of real property of at least six thousand (6,000) square feet within the City of Manchester for a period of six (6) months prior to an election and who are otherwise qualified to vote in state elections shall be eligible to vote in city elections, provided the person is properly registered in accordance with the applicable laws of the State of Tennessee.

Section 4. Referenda. The Board of Mayor and Aldermen of the City of Manchester, Tennessee, may direct the County Election Commission to place certain questions on the ballot to be submitted to the voters of the City of Manchester, Tennessee, on matters of general and vital concern in order to obtain the advice and direction of the voters as to such matters. Such referenda will be advisory in nature and nonbinding.

#### ARTICLE IV

##### BOARD OF MAYOR AND ALDERMEN

Section 1. Composition, eligibility, election, terms and re-election.

(a) Composition. There shall be a Board of Mayor and Aldermen composed of the Mayor and six (6) Aldermen.

(b) Eligibility. To be eligible for and to hold the office of Mayor or Alderman, a person must be a registered voter of the city, be a citizen of the State of Tennessee, and a resident of the City of Manchester for one (1) year next preceding the day of the election and be at least eighteen (18) years of age. No person shall be eligible for the office of Mayor or Alderman who shall have been convicted of malfeasance in office, bribery or other corrupt practice, or crime, or violating any of the provisions of this Act, and if the Mayor or an Alderman shall be so convicted, he shall forfeit his office.

(c) Election and Terms.

(1) Three (3) Aldermen shall be elected in the general city election held on the first Thursday of August in even-numbered years and shall continue to hold office until their successors are elected in the general city election held on the first Thursday in August of 2018 and are qualified and have taken their oath of office. The Mayor and three (3) Aldermen elected in the general city election held on the first Thursday in August of 2016 shall continue to hold office until their successors are elected in the general city election held on the first Thursday in August of 2020 and are qualified and have taken their oath of office.

(2) It is the intent of this Charter to continue the existing pattern of staggered four year terms for the positions of Mayor and Alderman. The term of office for those city officials elected and qualified in August of 2016 and in all



even-numbered years thereafter shall commence with them taking their oath of office, administered by the City Judge, or someone authorized to administer oaths, as soon as practical, but no later than on the first Monday following the certification of the election by the Coffee County Election Commission.

Section 2. Compensation; expenses. Until otherwise established by ordinance by the Board of Mayor and Aldermen, the Mayor and the Aldermen shall each receive compensation in an amount set by ordinance. Any ordinance increasing salaries must be preceded by public notice of intent to adopt and must receive final approval ninety (90) days prior to the next general city election and shall become effective for those officials elected at the next general city election and for the remaining officials elected two (2) years later. The Board of Mayor and Aldermen may receive their actual and necessary expenses incurred in the performance of their duties of office, if authorized by ordinance.

Section 3. Duties of the Mayor.

(a) The mayor:

(1) Shall be the chief executive officer of the municipality and shall preside at meetings of the board;

(2) Shall administer oaths;

(3) Shall communicate any information needed, and recommend measures the mayor deems expedient to the board;

(4)

(A) Shall make temporary appointments of any officer or department head in case of absence, sickness or temporary disability; and

(B) The board may confirm the mayor's appointment or otherwise appoint a person to fill the vacant office unless this duty has been delegated as authorized in this Charter;

(5)

(A) May call special meetings of the board upon adequate notice to the board and adequate public notice; and

(B) Shall state the matters to be considered at the special meeting and the action of the board shall be limited to those matters submitted;

(6) Shall countersign checks and drafts drawn upon the treasury by the treasurer and sign all contracts to which the municipality is a party unless this duty has been assigned to some other officer of the city by the board;

(7) Except in the event of a tie, shall have no vote on matters coming before the board; and

(8) Shall make appointments to boards and commissions as authorized by law.

(b) Unless otherwise designated by the board by ordinance, the mayor shall perform the following duties or may designate a department head or department heads to perform any of the following duties:

(1) Those duties set forth in Article V, Section 1(b) of this Charter, if the board does not appoint a city manager or if someone else is not designated by the board to perform those duties;

(2)

(A) As provided by ordinance, employ, promote, discipline, suspend and discharge all employees, except department heads who shall be appointed by the Board of Mayor and Aldermen, in accordance with personnel policies and procedures, if any, adopted by the board; and

(B) Nothing in this Charter or in any personnel policies and procedures adopted by the Board of Mayor and Aldermen shall be construed as granting a property interest to employees or department heads in their continued employment, and all such employees shall serve at the pleasure of the Mayor, as provided by ordinance and such department heads shall serve at the pleasure of the Board of Mayor and Aldermen or any other city official who is authorized by this Charter to

exercise the personnel powers of the Mayor contained in Article IV,

Section (3)(b);

(3) Act as purchasing agent for the municipality in the purchase of all materials, supplies and equipment for the proper conduct of the municipality's business; provided, that all purchases shall be made in accordance with policies, practices and procedures established by the Board, in accordance with state law;

(4) Prepare and submit the annual budget and capital program to the board for their adoption by ordinance; and

(5) Such other duties as may be designated or required by the Board.

#### Section 4. Vice-mayor.

(a) The Board of Mayor and Aldermen at the first regular meeting in September following each regular city election shall elect a member of the Board to the office of Vice-mayor who shall serve as Mayor when the Mayor is absent or unable to discharge the duties of the Mayor's office, but, in case of a vacancy in the office of Mayor, the Board of Mayor and Aldermen shall fill the vacancy with the Vice-mayor or from the remaining members of the Board until the next regular election, at which time someone will be elected for the balance of the term, if any, or for a new term.

(b) In the absence of the Mayor and Vice-mayor the Board of Mayor and Aldermen shall designate one of its number to preside at meetings, and who shall retain all of the voting rights of an Alderman. The Vice-mayor or Alderman filling the vacancy shall receive the Mayor's salary in lieu of their Alderman salary for the duration of the vacancy.

Section 5. Prohibitions. Holding Other Office. No member of the Board of Mayor and Aldermen shall hold any compensated appointive city office or employment with the city during the term for which elected or appointed to the Board of Mayor and Aldermen. Nothing in this section shall be construed to prohibit the Board of Mayor and Aldermen from selecting any current or former member of the Board of Mayor and Aldermen to represent the city on the governing board of any regional or other intergovernmental agency.

#### Section 6. Vacancies; forfeiture of office; filling of vacancies.

(a) Vacancies. The office of Mayor or Alderman shall become vacant upon the member's death, resignation, removal from office or forfeiture of office in any manner authorized by law.

(b) Forfeiture of Office. The Mayor or Alderman shall forfeit that office if the Mayor or Alderman:

(1) Lacks at any time during the term of office for which elected any qualification for the office prescribed by this Charter or by law;

(2) Violates any express prohibition of this Charter;

(3) Is convicted of a state or federal felony, appeals notwithstanding; or

(4) Fails to maintain bona fide residence within the city.

(c) Filling of Vacancies. A vacancy in the office of Alderman shall be filled until the next regular election, by a majority vote of all of the remaining members of the Board of Mayor and Aldermen. If the Board of Mayor and Aldermen fails to do so within sixty (60) days following the occurrence of the vacancy, the Mayor shall fill the vacancy until the next election. If the Mayor fails to fill the vacancy within sixty (60) days, either the Mayor or any two Aldermen shall notify the Coffee County Election Commission, who shall call a special election to fill the vacancy for the unexpired term. A special election shall be held not sooner than seventy-five (75) days and not later than eighty (80) days thereafter, and shall be governed by the general election laws of the state, except that no special election shall be held within one hundred and eighty (180) days of the next regular election. All appointments, until the next regular election, shall at the time of the next regular election, be filled by electing someone for the balance of term, if any, or for a new term. Aldermanic positions being filled for the balance of the term shall go to the next highest vote getter, with the top highest vote getters being elected to the regularly rotating aldermanic seats.

Section 7. Investigations. The Board of Mayor and Aldermen may make investigations into the affairs of the city and the conduct of any city department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence.

Section 8. Time and place of meetings. The Board of Mayor and Aldermen shall, by ordinance, fix the time and place at which the regular meetings of the Board of Mayor and Aldermen shall be held. Until otherwise provided by ordinance, the regular meeting of the Board of Mayor and Aldermen shall be held at 6:30 P.M. on the first Tuesday of each month. When such day falls on a legal holiday, the meeting shall be on the following Tuesday unless otherwise prescribed by the Board of Mayor and Aldermen. Whenever in the opinion of the Mayor, the Vice-mayor when acting as Mayor or of any two (2) Aldermen, the welfare of the city demands it, the Recorder shall call a special meeting of the Board of Mayor and Aldermen, by serving personal notice to the remaining members of the Board, and by publishing or broadcasting a notice at least three (3) business days before the meeting. The notice shall state the matters to be considered at the special meeting and the action of the Board shall be limited to those matters.

Section 9. Oath of office. The Mayor and Aldermen, before entering upon their duties, shall take an oath before the City Judge or someone authorized to administer oaths, to support the Constitution of the United States and of the State of Tennessee and the Charter and Ordinances of the City of Manchester and that they will faithfully discharge the duties of their office.

Section 10. Quorum. Four (4) Aldermen shall constitute a quorum for the transaction of business, but any smaller number may adjourn from day to day. The affirmative vote of four (4) members of the Board of Mayor and Aldermen present and constituting a quorum, will be necessary to adopt any motion, resolution or ordinance, or to pass any measure.

Section 11. Procedure for adopting ordinances. All ordinances shall begin with the clause, "Be it ordained by the Board of Mayor and Aldermen of the City of Manchester, Tennessee." An ordinance may be introduced by the Mayor or any of the six (6) Aldermen. The body of ordinances may be omitted from the minutes on first passage, but reference therein shall be made to the ordinance by title and subject matter. Every ordinance shall be passed on two (2) different days, at regular or special meetings. Copies of the text of every ordinance must be made available to the public during every meeting in which the ordinance is subject to passage. Every ordinance must receive at least four (4) votes on each passage as defined in

Section 10 of this Article. Every ordinance shall be effective upon final passage unless by its terms the effective date is deferred. Every ordinance upon final passage shall be signed by the Mayor, and shall be immediately taken charge of by the Recorder and numbered, copied in an ordinance book and there authenticated by the signature of the Recorder, and filed and preserved in the Recorder's office.

Section 12. Legislative action which must be exercised by ordinance. Except as otherwise provided by general law or this Charter, legislative action of the Board of Mayor and Aldermen shall be by ordinance when granting, renewing or extending public franchises; creating, abolishing or combining departments or offices; authorizing the borrowing of money; regulating the rate charged for its services by a public utility; fixing fees, service charges and utility rates; levying taxes; providing a fine or other penalty or establishing a rule or regulation for violation of which a fine or other penalty is imposed; or amending or repealing an existing ordinance.

## ARTICLE V

### CITY MANAGER

#### Section 1. Duties of city manager.

(a) The Board of Mayor and Aldermen may appoint a City Manager who shall serve at the will and pleasure of the Board. The City Manager shall report and be responsible to the Board. The City Manager need not be a resident of the city at the time of his appointment, but must become a resident within ninety (90) days after taking office.

(b) The Board shall, by ordinance, require the City Manager to perform all of the following duties:

- (1) Exercise each and all of the powers enumerated in Article IV, Section 3(b);
- (2) Prepare and submit the annual budget and capital program to the Board for their adoption by ordinance;
- (3) Administer the business of the city;

(4) Make recommendations to the Board for improving the quality and quantity of public services to be rendered by the officers and employees to the inhabitants of the city;

(5) Keep the Board fully advised as to the conditions and needs of the city;

(6) Report to the Board the condition of all property, real and personal, owned by the city and recommend repairs or replacements as needed;

(7) Recommend to the Board and suggest the priority of programs or projects involving public works or public improvements that should be undertaken by the city;

(8) Recommend specific personnel positions, as may be required for the needs and operations of the city, and may propose personnel policies and procedures for approval of the Board; and

(9) Perform such other duties as may from time to time be designated or required by the Board.

Section 2. Vacancy in the office of City Manager. During a vacancy in the office of City Manager, the Board of Mayor and Aldermen may appoint an acting City Manager, may designate a department head as acting City Manager or may assign the duties of the City Manager to the Mayor.

### Section 3.

(a) Appointments and Removals. No member of the Board of Mayor and Aldermen shall in any manner dictate the appointment or removal of any city administrative officer or employee whom the City Manager or any subordinate of the City Manager is empowered to appoint, but members of the Board of Mayor and Aldermen may express their views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees.

(b) Interference with Administration. Except for the purpose of inquiries and investigations under Article IV, Section 7, the Board of Mayor and Aldermen or its members shall deal with city officers and employees who are subject to the direction and

supervision of the City Manager solely through the City Manager, and neither the Board of Mayor and Aldermen nor its members shall give orders to any such officer or employee, either publicly or privately.

## ARTICLE VI

### CITY ATTORNEY

Section 1. Qualifications. The City Attorney shall be an attorney at law entitled to practice in the courts of the State of Tennessee.

Section 2. Appointment, duties and compensation. The City Attorney shall be appointed by the Board of Mayor and Aldermen and shall direct the management of all litigation in which the city is a party, including the function of prosecuting attorney in the city court; represent the city in all legal matters and proceedings in which the city is a party or interested, or in which any of its officers is officially interested; administer oaths; attend all regular Board of Mayor and Aldermen meetings and any other meetings when requested by the Board of Mayor and Aldermen; advise the Board of Mayor and Aldermen and committees or members thereof, the City Manager and the heads of all departments and divisions as to all legal questions affecting the city's interests; and approve as to form all contracts, deeds, bonds, ordinances, resolutions and other documents to be signed in the name of or made by or with the city. His or her compensation shall be as fixed by the Board of Mayor and Aldermen and he or she shall serve at the will of the Board of Mayor and Aldermen.

## ARTICLE VII

### FINANCE DIRECTOR/RECORDER

Section 1. Appointment, compensation and specific requirements, powers and duties of office. The Finance Director/Recorder shall be appointed by the Board of Mayor and Aldermen, and he shall, unless otherwise provided by ordinance, be the head of the department of finance. He shall receive a salary to be fixed by the Board of Mayor and Aldermen and a bond will be required with an amount set by the Board. The cost of such bond shall be an expense of the city. When required he shall by his signature and the city seal, attest instruments signed in the name of the city and official acts of the Mayor. He shall have power to administer oaths.



Section 2. Shall keep minutes. Unless otherwise provided by the Board of Mayor and Aldermen, it shall be the duty of the Finance Director/Recorder to be present at all meetings of the Board of Mayor and Aldermen and to keep a full and accurate record of all business transacted by the same, to be preserved in permanent book form.

Section 3. Shall be custodian of public records, bonds, etc. The Finance Director/Recorder shall have custody of and preserve in his office, the city seal, the public records, ordinance books, minutes of the Board of Mayor and Aldermen, contracts, bonds, title deeds, certificates and papers, all official indemnity or security bonds (except his own bond, which shall be in the custody of the Mayor), and all other bonds, oaths and affirmations, and all other records, papers and documents not required by this Charter or by ordinance to be deposited elsewhere, and register them by numbers, dates and contents, and keep an accurate and modern index thereof.

Section 4. Shall provide and certify copies of records, papers, etc. The Finance Director/Recorder shall provide, and, when required by any officer or person, certify copies of records, papers and documents in his office and charge therefore, for the use of the city, such fees as may be provided by ordinance and cause copies of ordinances to be printed, as may be directed by the Board of Mayor and Aldermen, and kept in his office for distribution.

Section 5. Shall generally supervise and keep records of fiscal affairs. The Finance Director/Recorder as head of the department of finance shall exercise a general supervision over the fiscal affairs of the city, and general accounting supervision over all the city's property, assets and claims. He shall be the general accountant and auditor of the city and shall have custody of all papers, records and vouchers relating to the fiscal affairs of the city, and the records in his office shall show the financial operations and condition, property, assets, claims and liability of the city, all expenditures authorized and all contracts in which the city is interested.

Section 6. Shall be Treasurer. The Finance Director/Recorder shall be the Treasurer of the city; as such it shall be his duty to collect, receive and receipt the taxes and all other revenues and bonds of the city, and the proceeds of its bond issues, and to disburse the same.

Section 7. Shall perform any other duties imposed. The Finance Director/Recorder shall also perform any other duties imposed upon him by this Charter, ordinance or job description.

## ARTICLE VIII

### ADMINISTRATION

Section 1. Departments, offices and agencies generally. The Board of Mayor and Aldermen may establish city departments, offices or agencies in addition to those created by this Charter, and may prescribe the functions of all departments, offices and agencies not inconsistent with this Charter. Departments, offices and agencies created by the Board of Mayor and Aldermen may be abolished or combined.

Section 2. Personnel rules. The Board of Mayor and Aldermen shall adopt personnel rules which may include but not be limited to:

- (1) A job classification plan;
- (2) A pay plan; and
- (3) The hours of work, attendance regulations and provisions for sick leave and vacation leave.

Section 3. Officers, employees, etc., who handle money, shall be bonded. Every officer, agent and employee having duties embracing the receipt, disbursement, custody or handling of money shall, before entering upon his duties, execute a surety bond with some surety company authorized to do business in the State of Tennessee, as surety, in such amount as shall be prescribed by ordinance or this Charter. All such bonds and sureties shall be subject to the approval of the Board of Mayor and Aldermen, and the Board of Mayor and Aldermen may provide for blanket bonds. The cost of all bonds shall be an expense of the city.

## ARTICLE IX

### FINANCE

Section 1. Fiscal year. The fiscal year of the city shall begin on the first day of July and end on the last day of June.

Section 2. Annual departmental budgets required. The adoption of an annual budget for all departments shall be a prerequisite to the appropriation of money for municipal purposes and the levy of property taxes.

Section 3. City required to prepare and submit annual budget. At least sixty (60) days before the beginning of the fiscal year there shall be prepared and submitted to the Board of Mayor and Aldermen a budget for the ensuing fiscal year.

Section 4. Required content and organization of budget. The budget shall provide a complete financial plan of all city funds and activities for the ensuing fiscal year, and, except as required by law or this Charter, shall be in such form as deemed desirable by the Board of Mayor and Aldermen.

Section 5. Amendments to budget, when budget must be adopted, and effect of adoption. The Board of Mayor and Aldermen shall adopt the budget by ordinance. The Board of Mayor and Aldermen may amend the budget by ordinance, but no amendment shall decrease expenditures required by law for debt service. The budget shall be adopted for the ensuing fiscal year before the end of the current fiscal year. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated. The Board of Mayor and Aldermen shall also adopt an ordinance establishing a property tax levy.

Section 6. Supplemental appropriations. If during the fiscal year the Head of the Department of Finance certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Board of Mayor and Aldermen by ordinance may make supplemental appropriations for the year up to the amount of such excess.

Section 7. Deficits. If at any time during the fiscal year it appears probable to the Head of the Department of Finance that the revenues available will be insufficient to meet the amount appropriated, he shall report to the Board of Mayor and Aldermen without delay, indicating the estimated amount of the deficit, any remedial action taken by him and his recommendations as to any other steps to be taken. The Board of Mayor and Aldermen shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by resolution reduce appropriations.

Section 8. Transfer of unencumbered appropriations. At any time during the fiscal year the Board of Mayor and Aldermen may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency and the Board of Mayor and Aldermen may by resolution transfer part or all of any unencumbered appropriation balance from one department, office or agency to another.

Section 9. Lapsing of appropriations. Every appropriation shall lapse at the end of the fiscal year to the extent that it has not been expended or encumbered.

Section 10. Incurrence and discharge of obligations. No payment shall be made or obligation incurred against any appropriation unless the Head of the Department of Finance or an officer designated by him first certifies that an appropriation has been made for that purpose and that there is unexpended and unencumbered in the appropriation for that purpose an amount sufficient to meet the obligation or to make the expenditure. However, except where prohibited by law, nothing herein shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year.

Section 11. Accounting records and audits. There shall be installed and maintained adequate accounting records in accordance with generally accepted principles of municipal accounting. The same account titles shall be used throughout the accounting records, the budget and financial statements. Constant and comprehensive budgetary control shall be maintained. An audit of the financial affairs of the city shall be required by action of the Board of Mayor and Aldermen and same be made after the end of each fiscal year by a public accountant skilled in such work. Any taxpayer may file a bill in chancery court to compel the Board of Mayor and Aldermen to have the audit made if such accountant has not been employed within one (1) month after the end of the fiscal year.

## ARTICLE X

### TAXATION

Section 1. Assessment and levy. All property within the city not exempt by general law shall be assessed for taxation upon the same principles established in regard to state and county taxation.

Section 2. Due and delinquent dates; penalties and interest. Property taxes shall be payable on and after October 1 in the year for which assessed and shall become delinquent on March 1 following. Unless otherwise provided by ordinance, an interest and penalty of one and one-half percent (1.5%) per month of the amount of the delinquent taxes shall also be added on the first day of March, in which the taxes become delinquent, and one and one-half percent (1.5%) shall be added on the first day of each month thereafter.

Section 3. Collection of delinquent taxes. The Board of Mayor and Aldermen may provide by ordinance for the collection of delinquent real property taxes by the Finance Director/Recorder as provided by general law, or by the City Attorney acting in accordance with general laws providing for the collection of delinquent city or county taxes. If not otherwise collected, the City Attorney, or other attorney designated by the Board of Mayor and Aldermen, shall file suit for collection of all delinquent taxes not later than eighteen (18) months following date of delinquency.

Section 4. County may collect taxes. The city may contract with the county for the collection of city taxes in accordance with general law.

Section 5. Hotel tax.

(1) As used in this section, unless the context otherwise requires:

(a) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, receiver, trustee, syndicate or any other group or combination acting as a unit.

(b) "Hotel" means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist camp, tourist court, tourist cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration.

(c) "Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings or accommodations in any hotel.

(d) "Transient" means any person who exercises occupancy or is entitled to occupancy for any room, lodgings or accommodations in a hotel for a period of less than ninety (90) continuous days.

(e) "Consideration" means the consideration charged, whether or not received, for the occupancy in a hotel valued in money whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever. Nothing in this definition shall be construed to imply that consideration is charged when the space provided to the person is complimentary from the operator and no consideration is charged to or received from any person.

(f) "Operator" means the person operating the hotel whether as owner, lessee or otherwise.

(2) The Board of Mayor and Aldermen is authorized to levy a privilege tax upon the privilege of occupancy in any hotel of each transient in an amount not to exceed six percent (6%) of the consideration charged by the operator. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided by this Charter.

(3) Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of his hotel and to be given directly or transmitted to the transient and shall be collected by such operator from the transient and remitted to the city.

When a person has maintained occupancy for ninety (90) continuous days, he shall receive from the operator a refund or credit for the tax previously collected from or charged to him, and the operator shall receive credit for the amount of such tax if previously paid or reported to the city.

(4) The tax hereby levied shall be remitted by all operators who lease, rent or charge for any rooms within the city to the Finance Director/ Recorder or such other

officer as may by ordinance of the legislative body be charged with the duty of collection thereof, such tax to be remitted to such officer not later than the twentieth day of each month for the preceding month. The operator is hereby required to collect the tax from the transient at the time of the presentation of the invoice for such occupancy whether prior to occupancy or after occupancy as may be the custom of the operator, and if credit is granted by the operator to the transient, then the obligation to the city entitled to such tax shall be that of the operator.

(5) The Finance Director/Recorder or other authorized collector of the tax authorized by this Charter shall be responsible for the collection of such tax. A monthly tax return under oath shall be filed with the Finance Director/Recorder by the operator with such number of copies thereof as the Finance Director/Recorder may reasonably require for the collection of such tax. The report of the operator shall include such facts and information as may be deemed reasonable for the verification of the tax due. The form of such report shall be developed by the Finance Director/Recorder and approved by the legislative body prior to use. The Finance Director/Recorder shall audit each operator in the city at least once per year and shall report on the audits made on a quarterly basis to the Board. The Board is hereby authorized to adopt resolutions to provide reasonable rules and regulations for the implementation of the provisions of this Charter.

(6) No operator of a hotel shall advertise or state in any manner whether directly or indirectly that the tax or any part thereof will be assumed or absorbed by the operator or that it will not be added to the rent, or that if added, any part will be refunded.

(7) Taxes collected by an operator which are not remitted to the Finance Director/Recorder on or before the due dates are delinquent. An operator shall be liable for interest on such delinquent taxes from the due date at the rate of twelve percent (12%) per annum, and in addition for penalty of one percent (1%) for each month or fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax herein required to be remitted. Each occurrence of willful refusal of an operator to collect or remit the tax or willful refusal of a transient to pay the tax imposed

is hereby declared to be a violation of this section and such operator shall be punishable by a fine not in excess of fifty dollars (\$50.00).

Each occurrence of knowing refusal of an operator to collect or remit the tax or knowing refusal of a transient to pay the tax imposed is a fifty dollar (\$50.00) fine. Each occurrence shall constitute a separate violation. As used in this paragraph "each occurrence" means each day.

Nothing in this section shall be construed to prevent the Finance Director/Recorder or other authorized collector of the tax from pursuing any civil remedy available to the collector by law, including issuing distress warrants and the seizure of assets, to collect any taxes due or delinquent under this section.

(8) It shall be the duty of every operator liable for the collection and payment to the city of any tax imposed by this Charter to keep and preserve for a period of three (3) years all records as may be necessary to determine the amount of such tax as such operator may have been liable for the collection of and payment to the city which records the Finance Director/Recorder shall have the right to inspect at all reasonable times.

(9) The Finance Director/Recorder in administering and enforcing the provisions of this Charter shall have as additional powers, those powers and duties with respect to collecting taxes as provided in Title 67 of Tennessee Code Annotated or otherwise provided by law for the county clerks.

Upon any claim of illegal assessment and collection, the taxpayer shall have the remedy provided in Tennessee Code Annotated, it being the intent of this act that the provisions of law which apply to the recovery of state taxes illegally assessed and collected shall also apply to the tax levied under the authority of this Charter. The Finance Director/Recorder shall also possess those powers and duties as provided in Tennessee Code Annotated, Section 67-1-707, for the county clerks with respect to the adjustment and settlement with taxpayers of all errors of taxes collected by him under authority of this Charter and to direct the refunding of same. Notice of any tax paid under protest shall be given to the Finance Director/Recorder and the ordinance



authorizing levy of the tax shall designate an officer against whom suit may be brought for recovery.

(10) The Finance Director/Recorder is hereby charged with the duty of collection of the tax herein authorized and shall place the proceeds of such tax in such fund as the Board may specify by ordinance.

## ARTICLE XI

### CITY COURT

Section 1. City court established. A City Court is hereby established and granted jurisdiction over all infractions of municipal ordinances of the City of Manchester.

Section 2. Appointment, qualifications, oath, compensation and restrictions on office of City Judge. The City Judge shall be appointed by the Board of Mayor and Aldermen and shall serve at the will and pleasure of the Board of Mayor and Aldermen. Qualifications for the City Judge shall be established by ordinance by the Board of Mayor and Aldermen. He shall take the same oath required of the Board of Mayor and Aldermen. The Board of Mayor and Aldermen shall establish the compensation of the City Judge by ordinance. The City Judge shall not be eligible to hold elective offices for the City of Manchester.

In the absence or disability of the City Judge, the Mayor may designate a qualified person to serve as acting City Judge until one can be appointed at the next regularly scheduled meeting of the Board, or as otherwise provided by ordinance.

Section 3. Duties and powers of the City Judge. The City Judge shall try all persons charged with violation of the ordinances of the city. He shall have the power to levy fines, penalties and forfeitures in accordance with such offense and to impose such costs as the Board of Mayor and Aldermen may by ordinance provide, to issue all necessary process, to administer oaths and to punish for contempt.

Section 4. Court policies and procedures. The policies and procedures governing the day to day operations of the court shall be provided by ordinance.

Section 5. City Judge to be the exclusive judge of law and facts. The City Judge shall be the exclusive judge of the law and facts in every case before him, and no official or employee

of the city shall attempt to influence his decision except through pertinent facts presented in court.

## ARTICLE XII

### BOARD OF EDUCATION

Section 1. Composition, eligibility, election, terms, and re-election. There shall be a Board of Education composed of five (5) members. To be eligible for service on the Board of Education, the person must be a resident and qualified voter of the city, and elected in the same manner as the Mayor and Aldermen in the general city election held on the first Thursday in August of all even-numbered years and their term of office shall commence with them taking their oath of office, administered by the City Judge, or someone qualified to administer oaths, as soon as practical, but no later than the first Monday following the certification of the election by the Coffee County Election Commission.

The Board of Education shall provide for its own organization and rules of procedure, and shall keep a record of all its proceedings.

The Board of Education shall have control over the operation and maintenance of the school system and school property. At the beginning of each school year the Director of Schools shall submit to the Board of Mayor and Aldermen a maintenance plan which shall contain details and responsibilities of the maintenance of the physical plant of all facilities in the system. The schools shall at all times be operated and maintained so as to meet the requirements of State law provided for municipal Boards of Education. The Board of Education shall submit its portion of the city budget to the Board of Mayor and Aldermen as provided in Article IX of this Charter. Within the limitations of the city budget, the Board of Education shall have the power to employ teachers and such other persons as in its discretion is necessary for the efficient operation of the schools, to fix their compensation, and to make all other necessary expenditures.

The Board of Education shall appoint a Director of Schools who shall be a person of education and experience, capable of performing functions imposed on municipal directors of schools by State law. The Board of Education may employ a Director of Schools under written contract of up to four (4) years, which may be renewed if the Board of Education so desires.

Compensation and other matters relating to the Director of Schools shall be made as may be determined by resolution of the Board of Education provided, however, the Board of Mayor and Aldermen are informed of the details of such a resolution.

The erection of any classroom or other facility which shall house students shall be subject to the approval of the Board of Mayor and Aldermen. All bonded indebtedness or other borrowing shall be by the action of the Board of Mayor and Aldermen upon recommendation of the Board of Education.

All children who are now or may hereafter be entitled under the laws of the State of Tennessee to attend the public schools in Coffee County and who reside within the corporate limits of the City of Manchester shall be entitled to attend city schools. Children living outside the City of Manchester may attend city schools under the terms and conditions of a tuition policy set by the Board of Mayor and Aldermen after consultation with the Board of Education. Said tuition shall be set by the Board of Mayor and Aldermen with the passage of the annual budget of the City of Manchester and shall be valid for that fiscal year only. The maximum number of such children allowed to attend by paying tuition shall be established by ordinance. At the beginning of each school year the Director of Schools shall submit a report on the number of such children to the Board of Mayor and Aldermen. The report shall contain the number of such children per classroom and grade level.

Receipt, custody and accounting for all school funds shall be the duty of the Finance Director. School funds shall be disbursed by the Finance Director only upon an order signed by a person authorized by the Board of Education. The Finance Director shall make required financial reports and any other reports requested by the Board of Education, and shall segregate school funds as required by law or ordinance.

### ARTICLE XIII

#### MISCELLANEOUS AND TRANSITIONAL PROVISIONS

Section 1. Corporate existence, existing ordinances and resolutions. The corporate existence of the City of Manchester is continued. All existing ordinances, resolutions or other actions of the Board of Mayor and Aldermen not inconsistent with this Charter shall remain in full force and effect until amended or repealed in the manner herein provided.

Section 2. Expiration of terms of elected officers. The Board of Mayor and Aldermen in office when this Act is ratified shall continue in office as the Board of Aldermen until their successors are elected and qualified.

Section 3. Legal effect of this Act. This Act is declared to be a Public Act, and may be read in evidence in all courts of law and equity. All ordinances and resolutions and proceedings of the Board of Mayor and Aldermen created by this Charter may be proven by the seal of said Corporation, attested by the Finance Director/Recorder, and, when printed and published by the authority of said Corporation and certified by the Finance Director/Recorder, shall be received in evidence in all courts and places without further proof.

Section 4. Severability. If any article, section, subsection, paragraph, sentence or part of this Charter shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair any other parts of this Charter unless it clearly appears that such other parts are necessarily dependent upon the part or parts held to be invalid or unconstitutional. It is the legislative intent in enacting this Charter that each article, section, subsection, paragraph, sentence or part be enacted separately and independently of each other.

Section 5. Gender. Wherever, in this Charter, "man, men, him, his, he" or their related pronouns may appear, either as words or as parts of words, they have been used for literary purposes and are meant in their generic sense (i.e., to include all humankind - both female and male sexes).

SECTION 2. Nothing in this act shall be construed as having the effect of removing any incumbent from office or abridging the term of any official prior to the end of the term for which such official was elected.

SECTION 3. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of the City of Manchester. Its approval or non-approval shall be proclaimed by the presiding officer of Manchester and certified to the secretary of state.

SECTION 4. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective as provided in Section 3.